

REMARKS

At the outset, the Examiner is respectfully requested to acknowledge the submission herein of a document entitled "Revocation of Power of Attorney" authorizing the undersigned to proceed on behalf of the Applicants herein.

With regard to the amendment, the claims of the application have been amended to address the technical objections to the claims set forth on pages 2 and 4 of the Office Action. In this regard, acknowledgement is made of the helpful suggestions of the Examiner in addressing the technical objections. The amendments of claims 1, 2, 6, 7, 15, 18, 19 and 44 are deemed to overcome the technical objections without the entry of new matter. Entry of the amendments is therefore deemed proper and withdrawal of the technical objections is respectfully requested.

15

Applicants gratefully acknowledge the indication that the subject matter of claims 6, 7, 9, 15-20, 37-39 and 44 is allowable. However, based on the following remarks, it is respectfully submitted that all of the claims of the application are free of the prior art specifically relied on in the Office Action.

20

Claims 1, 2, 5 and 40-43 stand rejected as anticipated by Diamantopoulos et al. (U.S. Patent No. 4,930,504) alone or in combination with Crowley et al. (U.S. Patent No. 6,324,418). The reasons presented in support of the rejections are set forth on pages 4 and 5 of the Office Action.

The rejections are hereby traversed and reconsideration is respectfully requested.

5 The present invention is directed to an apparatus for the treatment of a skin disorder and especially acne vulgaris and seborrhea. As indicated on page 1 of the application, the enlargement and obstruction of sebaceous glands cause acne vulgaris. This arises due to the accumulation of sebum in the gland which results in bacteria [propionibacterium acnes (p. acnes)] proliferating in the glands. The
10 bacteria is believed to cause inflammation as well as contribute to the formation of pustular lesions and acne cysts.

As indicated in the specification in the paragraph beginning at page 7, line 18, the apparatus of the present invention provides for the administration of light in a
15 manner in which light energy is provided above a threshold level to achieve the destruction (i.e. killing) of the bacteria.

Diamantopoulos et al. (U.S. Patent No. 4,930,504) is directed to a device for biostimulation of tissue employing an array of substantially monochromatic radiation
20 sources of a plurality of wavelengths, preferably of at least three different wavelengths. As noted in the Examples beginning on page 10, the wavelengths employed are typically in the range of from 660 nm to 950 nm. While it is stated at column 5, beginning at line 18 that a variety of spectrums and wavelengths can be

used, it is clear that there is no emphasis on the importance of using a wavelength within the range of 405 to 440 nm.

Furthermore, and particularly important, the device of the reference is directed to the biostimulation of tissue. There is no teaching or suggestion of a device which directly destroys or kills bacteria. It is believed that biostimulation is a process by which the immune system is stimulated and therefore the reference employs not only a different type of device but also a different approach to the treatment of tissue.

Crowley et al. (U.S. Patent No. 6,324,418) is not, as suggested in the Office Action, directed to the treatment of tissues including skin. To the contrary, it is directed to a portable tissue spectroscopy apparatus in which light which has been emitted by the tissue is analyzed by an external detector through an optical fiber to determine tissue characteristics. This has nothing whatever to do with the treatment of tissues for any disease and particularly for acne vulgaris and seborrhea. One of ordinary skill in the art would not employ an apparatus which functions as an analytical tool for the actual treatment of skin disorders through the destruction of bacteria. Accordingly, the rejection of Applicant's claims based on the Diamantopoulos et al. alone or in combination with Crowley is improper and should be withdrawn.

Claims 1-3 stand rejected as obvious over Tyrrel (U.S. Patent No. 5,896,457) in combination with Diamantopoulos et al. The reasons presented in support of the rejection are set forth on page 5 of the Office Action. Tyrrel is directed to a device

ARK:jsg010903/2491001.AMD

for producing light enhanced sound from a music source and has nothing whatever to do with the present device for the treatment of skin disorders employing a specified light emission which destroys bacteria which causes the skin disorder. It is respectfully submitted that devices like that disclosed in the Tyrrel reference would not provide guidance to one of ordinary skill in the art to arrive at the claimed invention because they have nothing whatever to do with the treatment of skin disorders and therefore the rejection based on Tyrrel improperly employs hindsight reconstruction.

In view of the foregoing, Applicants submit that the present application patentably distinguishes over the references of record.

Applicants remind the Examiner of the Information Disclosure Statement filed on October 20, 2002 and request entry and consideration of the same.

It is believed that no fee is due in connection with the present amendment. However, if any fee is due, it should be charged to Deposit Account No. 23-0510.

Respectfully submitted,


Allen R. Kipnes, Esquire
Registration No. 28,433
Attorney for Applicant

Address All Correspondence to:
Allen R. Kipnes, Esquire
WATOV & KIPNES, P.C.
P.O. Box 247
Princeton Junction, NJ 08550
(609)243-0330